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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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COMMISSIONERS

DOCKETED

MARC SPITZER, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON
KRISTIN K. MAYES

2004 MAY 24 A 9:18

MAY 24 2004

AZ CORP COMMISSION
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IN THE MATTER OF THE MATTER OF THE
JOINT APPLICATION OF TOUCH AMERICA,
INC. TO SELL AND TRANSFER TO
360NETWORKS (USA) INC. CERTAIN LIT
FIBER ASSETS IN ARIZONA AND RELATED
CUSTOMER CONTRACTS DEPENDENT ON
THOSE FACILITIES.

DOCKET NO. T-04011A-03-0749
T-03777A-03-0749

PROCEDURAL ORDER

BY THE COMMISSION:

On October 9, 2003, Touch American, Inc. ("TAI") and 360Networks (USA) ("360") filed a joint application requesting authority for TAI to sell and transfer to 360 certain lit fiber assets in Arizona and related customer contracts dependent on those facilities.

On January 20, 2004, the Arizona Corporation Commission ("Commission") issued Decision No. 66737 granting the application, with certain conditions.

On February 19, 2004, 360 filed a Motion for Extension of Time to File Performance Bond and Permission to Submit Alternative Means of Compliance.

On April 14, 2004, by Procedural Order, Staff was ordered to file a response to the Motion for Extension of Time by April 19, 2004.

On April 19, 2004, Staff filed its response stating that although it does not object to the extension of time to file a performance bond, it does object to the Company's use of a letter of credit.

On April 23, 2004, a Procedural Order was issued that set this matter for a pre-hearing conference on May 3, 2004.

On May 3, 2004, the pre-hearing was held as scheduled. 360 appeared and was represented by counsel. Staff also appeared and was represented by counsel. During the course of the pre-hearing conference, 360 explained that they were still in the process of obtaining the \$100,000 performance bond as required in Decision No. 66737. 360 stated it was also considering setting up an escrow account as provided for in A.A.C. R14-2-1105(D) in lieu of obtaining the performance

bond. 360 indicated that it will either procure the performance bond or it would establish an escrow account and file the appropriate paperwork with the Commission to amend Decision No. 66737 within the next 90 days. 360 made a statement on the record that it would waive its right to a hearing under A.R.S. § 40-252 if in fact Decision No. 66737 needed to be amended to allow 360 to establish an escrow account. Staff stated that it did not object to a 90 day continuance to allow 360 to obtain the performance bond or to establish an escrow account.

IT IS THEREFORE ORDERED that 360Networks (USA)'s Motion for Extension of Time to File Performance Bond and Permission to Submit Alternative Means of Compliance is granted as follows: 360Networks (USA) shall either file the performance bond as ordered in Decision No. 66737 or, pursuant to A.R.S. § 40-252, make the appropriate filing(s) to amend Decision No. 66737 to allow it to establish an escrow account in compliance with A.A.C. R14-2-1105(D) and receive Commission approval to establish an escrow account on or before August 4, 2004.

IT IS FURTHER ORDERED that if 360Networks (USA) fails to obtain the performance bond or Commission approval to amend Decision No. 66737, then the approval granted in Decision No. 66737 is void and its original application shall be deemed denied.

Dated this 24 day of May, 2004



PHILIP J. DION III
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed this 24 day of May, 2004 to:

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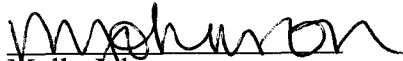
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